



CHESTERFIELD COUNTY ADMINISTRATIVE POLICIES AND PROCEDURES

Department: Human Resource Management
Subject: Workers' Compensation

Policy Number: 6-3
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I. INTRODUCTION

This document outlines the basic structure of Virginia Workers' Compensation law, the procedures supervisors and employees must follow after an on-the-job injury, and authorizes supplemental payments for injured employees in certain circumstances.

The Workers' Compensation law enacted by the legislature of the Commonwealth of Virginia sets the requirements for the employer in the handling of employee illness, injury and disability arising from a job-related accident. Enforcement and interpretation of this law rests primarily with the Virginia Workers' Compensation Commission.

The law generally provides that all necessary medical costs arising from a job-related accident or illness shall be paid by the employer. Payments for lost time (salary) shall begin the 8th calendar day from the date of accident and continue until the employee is able to return to work or returns to work, for a maximum of up to 500 weeks. When the workers' compensation leave exceeds 21 calendar days, the employee is reimbursed for the first seven calendar days. The law states that the employee shall be paid on the following basis: 2/3 of the employee's gross weekly wage with a minimum and a maximum dollar amount per week as set by law and subject to revision periodically. These payments are also subject to a cost of living increase as long as the maximum is not exceeded.

The intent of this law is to provide for the financial needs of the employee and provide incentive for the individual to return to work.

Chesterfield County workers' compensation is self-insured and administered through:

Chesterfield County Risk Management
P. O. Box 788
Chesterfield, Virginia 23832
(804) 796-2128

Risk Management is authorized to handle all employee claim settlements, except those referred to the County Attorney's Office.

The County Attorney's Office is responsible for the handling of contested claims, including those scheduled for a hearing before the Virginia Workers' Compensation Commission.

II. POLICY

Chesterfield County provides workers' compensation as required by the Code of Virginia. In addition, the County also voluntarily pays a supplement to workers' compensation in certain situations for both full time and part time employees. In the event a supplemental payment is made, the supplemental amount and the workers' compensation benefit will equal (in total) the average bi-weekly net pay of the employee based on the twelve month period prior to the injury (hereafter referred to as the "average net before injury"). For consistency purposes, Payroll will use the current voluntary deductions (Credit Union, Flex-accounts, Health, Dental, etc.) to figure the "average net before injury" amount. This supplement will continue for 30 calendar days after the accident. In the event the compensable disability lasts longer than 30 calendar days, the employee will only receive statutory workers' compensation benefits beginning on the 31st calendar day.

The County will issue the employee one paycheck that will include the workers' compensation and County supplement. Voluntary deductions will be withheld from this check. The County shall

continue VRS Retirement/Life Insurance, the employer's share of health and dental care, and sick leave and vacation leave accrual until employment terminates.

Depending on the duration of workers' compensation leave and nature of manpower needs, the County cannot guarantee employment after a long absence. However, efforts will be made to provide productive work if it is available.

Should any employee turn down work offered that he/she is capable of performing, the County shall cease payment of any supplement. Additionally, the County may contest the employee's entitlement to further workers' compensation benefits before the Virginia Workers' Compensation Commission. The Virginia Workers' Compensation Commission does not have jurisdiction to adjudicate any matters relating to any supplemental payments.

The County will comply with Family Medical Leave Act requirements (Administrative Procedure 6-22) in the application of this policy.

III. PROCEDURES

- A. **Employer's First Report of Accident** – When the injury exceeds on-site first aid, the Employer's First Report of Accident is to be completed and signed by the person designated within the department to complete this form and will include his/her title. The form will state the employer's version of events. The original of the Employer's First Report of Accident will be delivered along with one copy of the Supervisor's Investigation Report and Employee's Report of Injury within 24 hours of the occurrence of the accident to the Risk Management Department. All sections of the form shall be completed, including the home telephone number of the employee. Excessive or repeated delays in receiving completed reports shall be reported to the County Administrator.
- B. **Employee's Report of Injury** – This form is to be completed and signed by the employee and forwarded to Risk Management within 24 hours of the accident.
- C. **Supervisor's Investigation Report** – When any injury occurs, the immediate supervisor of the injured employee must promptly complete the County Supervisor's Investigation Report. This report should be retained by the supervisor and a copy forwarded to the Department Director. If the injury exceeds on-site first aid, it should also be forwarded along with the Employer's First Report of Injury to the Risk Management Department. The purpose of this report is to identify all factors that contributed to the accident so that corrective action can be instituted if necessary.
- D. **Physical Capabilities Form** – Supervisors will ensure that the injured employee is provided a Physical Capabilities Form with the top section completed by the employee's immediate supervisor and the remainder to be completed by the attending physician or medical facility on the initial visit to the health care provider. The injured employee will be advised to deliver the form to the medical facility, have the form completed, and then bring the form back to his/her supervisor, who in turn will promptly deliver the form to the Risk Management Department. The physician's name, medical facility, address and telephone number must be written on the bottom of the form.
- E. **Agreement to Pay Benefits** – This form will be offered to the employee for any accepted workers' compensation leave which exceeds seven calendar days. This agreement provides for wage benefits and payment of medical expenses pursuant to Virginia workers' compensation law.
- F. **Termination of Wage Loss Award** – When the employee is able to return to work or returns to work, the employee is requested to sign this form attesting to the amount, nature and duration of workers' compensation payments.
- G. The Risk Management Department will be responsible for preparing and forwarding the Agreement to Pay Benefits and Termination of Wage Loss Award for signature by the

employee. The forms should be signed promptly and returned to the Risk Management Department.

Any questions or concerns regarding the Agreement to Pay Benefits or Termination of Wage Loss Award should be promptly directed to the Risk Management Department.

- H. **List of Approved Physicians** – Except in emergency situations, all medical care must be supplied by one of the County approved physicians. A list of approved physicians is provided by Risk Management to the supervisor of the injured employee. The supervisor shall ensure that County employees sign the list of approved physicians acknowledging receipt. The signed form shall be immediately forwarded to Risk Management. The employee who is injured or anyone assisting the employee shall inform the attending medical staff that the injury is a workers' compensation case, with Chesterfield County being the responsible party for payment.
- I. In the event an investigation is necessary to determine if an injury will be accepted as compensable, the County will pay the medical expenses incurred from treatment by an approved physician until the date a letter is mailed to the employee stating that the workers' compensation claim has been denied.
- J. **Additional Reports** – Supplemental reports, wage statements and other reports as necessary, will be completed by the department director and delivered to the Risk Management Department upon request.

IV. **EXTENDED SUPPLEMENTAL PAYMENTS**

The Workers' Compensation Supplemental Payments Review Committee ("Review Committee") will consider requests for continuation of voluntary supplemental payments beyond 30 calendar days, however, in no case shall such payments extend to more than 90 calendar days.

- A. **Review Committee** – The Review Committee shall be comprised of:
 - 1. Director of Human Resource Management (Chairperson)
 - 2. Director of Health Department
 - 3. Department Head of injured employee (The Deputy County Administrator for Management Services shall serve when the injured employee is a Department Director)
- B. **Extended Supplemental Payment Guidelines** – The Review Committee will consider requests for additional supplemental payments on an individual basis. The Committee will consider all relevant information relating to the request, including, but not limited, to the following:
 - 1. Injuries suffered as a result of recreational activities will not be considered.
 - 2. The employee must not have received the injury in whole or in part through his own negligence, lack of care, violation of safety policies or procedures, violation of statutes, ordinances, other laws, or failure to use appropriate judgment.

C. **Procedure**

An employee must submit a written request for additional supplemental payments no later than 30 calendar days from the date of the first award of workers' compensation by the Virginia Workers' Compensation Commission. The request should be submitted to the Director of Human Resource Management. The Risk Management Department will notify the employee in writing of this deadline.

The Review Committee will meet and consider requests within fifteen (15) working days. Decisions made by the Review Committee are final and cannot be appealed. No meeting of the Review Committee will be held during the pendency of any litigation concerning a contested claim for benefits before the Virginia Workers' Compensation Commission, or any appeal of an award or decision of the Virginia Workers' Compensation Commission. The meetings of

the Review Committee are non-judicial in character and legal counsel shall not be permitted at the meeting.

D. Extent of Supplementary Action – A decision by the Review Committee may result in the following:

1. Up to an additional 60 calendar days income supplement that when added to the statutory workers' compensation benefit will equal the "average net before injury" amount.

Within any extension up to 60 calendar days, the supplement payment may be funded by the utilization of first, any accrued sick leave, then annual leave accrued as of the date of injury. Such sick or annual leave time shall be charged at the rate determined by dividing the gross income supplement amount by the employee's regular hourly wage or the employee's yearly salary divided by 2,080. When leave time is utilized to fund the supplement, the combination of leave time and the workers' compensation benefit will not exceed the "average net before injury" amount.

2. In no situation or event will the employee receive:
 - a. More than 90 calendar days of voluntary supplemental payments.
 - b. More than the "average net before injury" amount when any supplemental payment is allowed in addition to workers' compensation benefits.
3. Denial of the request.

E. Notification of Review Committee Decision – After the Review Committee has reached a decision, the Workers' Compensation Supplemental Payment Notice will be completed and signed by each member of the Committee and forwarded to the Payroll Section of Accounting. Payroll will forward the notice to the employee with an explanation of the effect of the decision on the employee's pay.

V. UTILIZATION OF LEAVE TIME

Accrued sick leave, annual or compensatory leave time may only be used by the employee in lieu of workers' compensation if permitted under other provisions of the County's Personnel Policies and Procedures, e.g. Family Medical Leave Act.

VI. SUBROGATION

The County's claim for recovery of all monies paid or to be paid pursuant to the workers' compensation laws set forth in the Code of Virginia constitutes a lien against any recovery obtained against a third party responsible for the accident/injury. The County will be reimbursed from any settlement with or judgment against a third-party responsible for a compensable injury. Proceedings involving the County's subrogation rights and/or the County's workers' compensation lien will be conducted in accordance with the applicable provisions of the Code of Virginia.